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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,933	12/09/2003	John Anthony Mayzel		2390

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J. GORDON THOMSON  
1353 MOUNTAINSIDE CR.  
OTTAWA, ON K1E 3G5  
CANADA

EXAMINER
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MORGAN JR, JACK HOSMER

ART UNIT	PAPER NUMBER
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3782

DATE MAILED: 10/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/729,933

Applicant(s)

MAYZEL, JOHN ANTHONY

Examiner

Jack H. Morgan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "180" has been used to designate both a slot (Fig 10) and a finger (Fig 2,4,5). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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2. The drawings are objected to because figure 2C fails to show line A-A having missed a reference character on the left side of the figure. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

On page 2, line 9, "Patent No. 4,086,787", should instead be --Patent No. 4,068,787--.

On page 13, lines 2 and 4 the reference character 180 is used to describe two different parts, a slot and a finger. This should be corrected along with the drawings.

Appropriate correction is required.

### ***Claim Objections***

4. Claim 2 is objected to because of the following informalities: In line 1, "an top portion" should read --a top portion--. Appropriate correction is required.
5. Claim 6 is objected to because of the following informalities: In line 4, "projecting with an acclivity" should read --projecting with acclivity--. Appropriate correction is required.
6. Claim 7 is objected to because of the following informalities: In line 3, "and second closed end" should read --and a second closed end--. Appropriate correction is required.
7. Claim 17 is objected to because of the following informalities: The first line of the claim claims dependence on claim 18, however the examiner believes it was intended to claim dependence on claim 16, as claim 18 also claims dependence on claim 17. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 16-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The second elongate body adapted to securely seal the at least one card within the first front chamber and the second rear chamber of claim 16, is not disclosed in the drawings or the specification. Moreover, it is unclear to the examiner how it would be possible to attach such a body to the invention, given the structure of the partition between the two chambers as set forth by applicant. In addition, applicant has not set forth any different partition that might allow the second elongate body to seal the first and second chambers.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said belt" in line 7. There is insufficient antecedent basis for this limitation in the claim thereby making it unclear what the applicant is referencing.

Claim 2 recites the limitation "said upper portion" in line 2. There is insufficient antecedent basis for this limitation in the claim thereby making it unclear what the applicant is referencing.

Claim 2 recites the limitation "said lower portion" in line 5. There is insufficient antecedent basis for this limitation in the claim thereby making it unclear what the applicant is referencing.

10. Claims 16 to 26 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The second elongate body adapted to securely seal the at least one card within the first front chamber and the second rear chamber of claim 16, is not disclosed in the drawings or the specification. Moreover, it is unclear to the examiner how it would be possible to attach such a body to the invention, given the structure of the partition between the two chambers as set forth by applicant. In addition, applicant has not set forth any different partition that might allow the second elongate body to seal the first and second chambers.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. Claims 1 and 10 is rejected under 35 U.S.C. 102(e) as being anticipated by Kawamura et al. (US PG Pub 2002/0056652 A1). Kawamura et al. disclose a belt mounted ID/credit card holder (Fig 13) which holds at least one card (C) with a first rectangular body (10') and second elongate body (50), the rectangular body having a chamber (15) adapted to hold a card and the elongate body having means (28') to demountably mount the rectangular body to a belt. (See paragraph [0054])

In regards to claim 10, the means (28') for mounting to a belt consists of a rigid looping member.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitts (US 4,853,676). Kitts discloses a card holding security device (Fig 1 and 2) with a rectangular body (1 and 2) adapted to secure a card or cards (41) in a front chamber (8) or a rear chamber (9), the two chambers being divided by a dividing member (See col 3, lines 47-55). Kitts also discloses an elongate body (3) which is adapted to secure the cards within the two chambers.



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In regards to claim 17, the front chamber (8) of Kitts front chamber includes a floor, a top wall with upper and inside surfaces, a bottom wall with upper and inside surfaces, a front wall acting as a card abutment, and an open back. (See Fig 5) In addition, the cardboard insert of Figure 5 is within the larger box of Figure 3, which again provides these surfaces. The surfaces are sized to hold a credit card (see Fig 3) and are in a frictional sliding arrangement.

### ***Allowable Subject Matter***

Claims 2-9, 11-15, and 18-26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Florjanic (US 6,089,289), Inglee (US 953,953), Craighead (US 4,068,787), Trusty (US 4,790,435), Tiscione et al. (US 6,412,627), Prinsloo (US 4,674,628) and Henning et al. (DE 3,604,020 A1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack H. Morgan whose telephone number is 571-272-3385. The examiner can normally be reached on M-Th 8-6.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jack Morgan  
AU 3782  
October 4, 2006

  
NATHAN J. NEWHOUSE  
SUPERVISOR / PATENT EXAMINER